

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-HC-2311-D

ROCKY BRYANT,

Petitioner,

v.

DENNIS DANIELS,

Respondent.

ORDER

On August 8, 2018, Magistrate Judge Numbers issued a Memorandum and Recommendation (“M&R”) [D.E. 20] and recommended granting respondent’s motion to dismiss [D.E. 10] and dismissing Rocky Bryant’s (“Bryant”) 28 U.S.C. § 2254 petition as untimely. See [D.E. 20] 5. Bryant objected to the M&R [D.E. 21] and filed a “motion for resentencing” [D.E. 22].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

Bryant’s objections do not meaningfully address the M&R. Because Bryant’s objections fail to meaningfully address the M&R, de novo review is not required. See, e.g., Wells v.


Shriners Hosp., 109 F.3d 198, 200–01 (4th Cir. 1997); Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982).

Alternatively, Bryant's objections lack merit. The statutory period for Bryant to file a habeas petition expired April 24, 1997. Bryant did not file his petition until November 29, 2016, and has not plausibly alleged any basis for equitable tolling. See M&R at 2–5.

Finally, in his motion for resentence, Bryant renews his request for habeas relief under 28 U.S.C. § 2254 [D.E. 22]. The court denies this motion. Bryant's claims are time-barred.

In sum, after reviewing the M&R, the record, and Bryant's objections, the court agrees with the legal conclusions in the M&R. Accordingly, Bryant's objections [D.E. 21] are OVERRULED, and the court ADOPTS the conclusions in the M&R [D.E. 20]. Respondent's motion to dismiss [D.E. 10] is GRANTED, and Bryant's petition [D.E. 1] is DISMISSED as untimely. Bryant's motion for resentence [D.E. 22] is DENIED. The court DENIES a certificate of appealability. See 28 U.S.C. § 2253(c); Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000). The clerk shall close the case.

SO ORDERED. This 16 day of August 2018.



JAMES C. DEVER III
Chief United States District Judge